



House of Representatives

General Assembly

File No. 495

January Session, 2001

Substitute House Bill No. 5862

House of Representatives, April 26, 2001

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING PORTAL TO PORTAL WORKERS'
COMPENSATION COVERAGE FOR CERTAIN HAZARDOUS DUTY
EMPLOYEES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Subdivision (1) of section 31-275 of the general statutes is repealed
2 and the following is substituted in lieu thereof:

3 (1) "Arising out of and in the course of his employment" means an
4 accidental injury happening to an employee or an occupational disease
5 of an employee originating while [he] the employee has been engaged
6 in the line of [his] such employee's duty in the business or affairs of the
7 employer upon the employer's premises, or while engaged elsewhere
8 upon the employer's business or affairs by the direction, express or
9 implied, of the employer, provided:

10 (A) (i) For a [policeman and a fireman] police officer, firefighter and
11 any employee of the Department of Correction, "in the course of his
12 employment" [shall encompass his] encompasses such individual's

13 departure from [his] such individual's place of abode to duty, [his]
14 such individual's duty, and [his] the return to [his] such individual's
15 place of abode after duty.

16 (ii) For purposes of this subparagraph, the dependents of any
17 deceased employee of the Department of Correction who was injured
18 in the course of his employment, as defined in this subparagraph, on
19 or after July 1, 2000, and who died not later than July 15, 2000, shall be
20 paid compensation on account of the death, in accordance with the
21 provisions of section 31-306, retroactively to the date of the employee's
22 death. The cost of the payment shall be paid by the employer or its
23 insurance carrier which shall be reimbursed for such cost from the
24 Second Injury Fund as provided in section 31-354 upon presentation of
25 any vouchers and information that the Treasurer may require;

26 (B) [a] A personal injury shall not be deemed to arise out of the
27 employment unless causally traceable to the employment other than
28 through weakened resistance or lowered vitality;

29 (C) [in] In the case of an accidental injury, a disability or a death due
30 to the use of alcohol or narcotic drugs shall not be construed to be a
31 compensable injury;

32 (D) [for] For aggravation of a preexisting disease, compensation
33 shall be allowed only for that proportion of the disability or death due
34 to the aggravation of the preexisting disease as may be reasonably
35 attributed to the injury upon which the claim is based;

36 (E) [a] A personal injury shall not be deemed to arise out of the
37 employment if the injury is sustained: (i) At the employee's place of
38 abode, and (ii) while the employee is engaged in a preliminary act or
39 acts in preparation for work unless such act or acts are undertaken at
40 the express direction or request of the employer; [.]

41 (F) For purposes of subparagraph (C) of this subdivision, "narcotic

42 drugs" means all controlled substances, as designated by the
43 Commissioner of Consumer Protection pursuant to subsection (c) of
44 section 21a-243, but does not include drugs prescribed in the course of
45 medical treatment or in a program of research operated under the
46 direction of a physician or pharmacologist. For purposes of
47 subparagraph (E) of this subdivision, "place of abode" includes the
48 inside of the residential structure, the garage, the common hallways,
49 stairways, driveways, walkways and the yard; [.]

50 (G) The Workers' Compensation Commission shall adopt
51 regulations, in accordance with the provisions of chapter 54, to
52 implement the provisions of this section and shall define the terms "a
53 preliminary act", [and] "acts in preparation for work", "departure from
54 place of abode to duty" and "return to place of abode after duty" on or
55 before October 1, [1995] 2001.

Statement of Legislative Commissioners:

Gender neutral changes were deleted for accuracy and consistency with the general statutes.

LAB *Joint Favorable Subst. C/R*

JUD

JUD *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Significant Costs

Affected Agencies: Department of Correction, State Treasurer
(Second Injury Fund)

Municipal Impact: None

Explanation**State Impact:**

The bill is intended to include employees of the Department of Correction (DOC) among those employees who are covered under the workers' compensation for injuries sustained while going to and from work. Currently, police officers and firefighters are the only groups who have this extended protection. Because the number of individuals who may be injured under this proposal is unknown, passage of the bill would result in indeterminate future costs to DOC. Funds appropriated for DOC workers' compensation have grown significantly over the last several years. DOC's FY 02 estimated expenditures for workers' compensation are projected at \$18 million.

In addition, while the bill would not have a fiscal impact to the Second Injury Fund (SIF) for claims arising from injuries sustained after the effective date of the legislation, the bill contains a retroactive provision that DOES have an impact on the fund. The bill seeks to retroactively provide death benefit payments in a specific circumstance

where it was determined that there was no viable workers' compensation claim. The bill would bring that particular case within the scope of employment and the cost of that claim would be subject to reimbursement by the SIF. Passage of the bill would result in a cost to the SIF of approximately \$1.5 million. This estimate is based on various factors including the maximum compensation rate and an annual cost of living adjustment. It should be noted that, while the SIF is operated by the State Treasurer, it is financed by private employer contributions, not including the state of Connecticut.

OLR Bill Analysis

sHB 5862

AN ACT CONCERNING PORTAL TO PORTAL WORKERS' COMPENSATION COVERAGE FOR CERTAIN HAZARDOUS DUTY EMPLOYEES.**SUMMARY:**

For workers compensation purposes, this bill adds Department of Correction (DOC) employees to the list of employees treated as if they were at work when they travel home to work and work to home. Currently, only police officers and fire fighters receive such treatment.

The bill requires retroactive death benefit payments to the dependents of any deceased DOC employee who was injured on or after July 1, 2000 and died before July 16, 2000. The employer or its insurance carrier must pay the cost of any such benefits and the Second Injury Fund must reimburse the employer or insurance carrier.

The bill also requires the Workers' Compensation Commission to adopt regulations defining the terms "departure from place of abode to duty" and "return to place of abode after duty" by October 1, 2001 (see COMMENT).

EFFECTIVE DATE: October 1, 2001

BACKGROUND***Death Benefits***

Most state employees' workers' compensation death benefits consist of (1) a \$4,000 burial fee; (2) a weekly cash payment of 75% of the deceased worker's average weekly take-home pay for the 52 weeks preceding the injury up to a statutory maximum (currently, \$838); and (3) any medical expenses incurred by the deceased prior to death, up to maximums specified in a medical fee schedule set by the Workers' Compensation Commission.

Second Injury Fund

The Second Injury Fund is a state-run workers' compensation fund financed by state employers and operated by the state treasurer. Among other things, the fund pays or contributes to workers' compensation benefits for workers with preexisting disabilities who were reinjured before July 1, 1995, whose employers are uninsured, or who worked more than one job when they were injured.

COMMENT***Effective Date***

The bill requires the Workers' Compensation Commission to adopt certain regulations by October 1, 2001, but the bill does not take effect until October 1, 2001.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 14 Nay 0

Judiciary Committee

Joint Favorable Report

Yea 38 Nay 1